DECLARATION OF GOOGLE, INC. REPRESENTATIVE ANNIE HSU

I, Annie Hsu, hereby declare and state as follows:

1. I am an AdWords Associate for Google, Inc. ("Google"). I have been employed by Google since June 2004. I make this declaration in support of Google's Motion to Dismiss the Amended Complaint in the matter captioned *Lawrence E. Feldman d/b/a Lawrence E. Feldman & Assocs. v. Google, Inc.*, Civil Action No. 06-cv-2540 (E.D. Pa.). I know the facts stated herein of my own personal knowledge, and if called to testify as a witness, I could and would do so competently and under oath.

2. Google's online advertising service that allows advertisers to create text- or image-based ads and to display them online in a targeted manner is called "AdWords." I understand that, in this action, plaintiff Feldman alleges that he was an AdWords advertiser. If so, he was required to enter into an AdWords contract *before* he placed any ads or incurred any charges.

3. When an advertiser wishes to open an AdWords account, he uses Google's on-line sign-up process. (Some very large advertisers do not use this on-line process, and instead interact directly with Google representatives, but those are exceptional cases which are not relevant here.) The on-line sign-up process, which is available through the website https://adwords.google.com/select/Login, guides the advertiser through a series of steps, and requires him to provide certain information or responses at each step in order to progress to the next step. In the first series of steps, the advertiser provides information such as the text of the ad he wishes to run, the search keywords that he wishes to target the ad to (terms like "digital camera" or "home mortgage," for example), and so forth. At the conclusion of these steps, the

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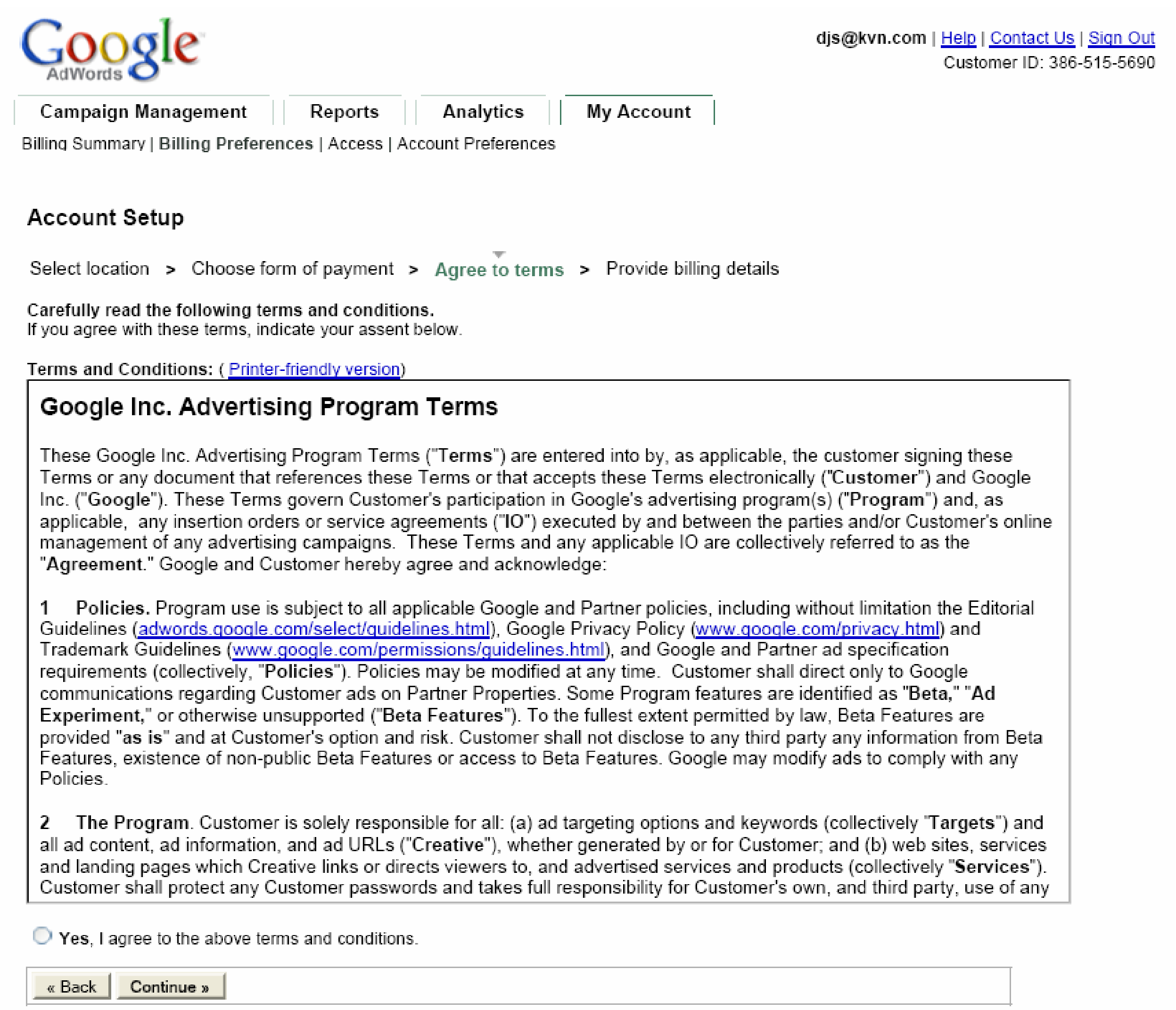
advertiser may create an AdWords account. The account is inactive, however—and the advertiser *cannot* place any ads or incur any charges—until he performs several additional steps.

4. To activate the account, the advertiser must visit his account page, where he is shown a copy of the AdWords contract. Here is an image depicting what the advertiser sees:


Google AdWords
djs@kvn.com | Help | Contact Us | Sign Out
Customer ID: 386-515-5690
Campaign Management
Reports
Analytics
My Account
Billing Summary | Billing Preferences | Access | Account Preferences
Account Setup
Select location > Choose form of payment > Agree to terms > Provide billing details
Carefully read the following terms and conditions.
If you agree with these terms, indicate your assent below.
Terms and Conditions: (Printer-friendly version)
Google Inc. Advertising Program Terms
These Google Inc. Advertising Program Terms ("Terms") are entered into by, as applicable, the customer signing these Terms or any document that references these Terms or that accepts these Terms electronically ("Customer") and Google Inc. ("Google"). These Terms govern Customer's participation in Google's advertising program(s) ("Program") and, as applicable, any insertion orders or service agreements ("IO") executed by and between the parties and/or Customer's online management of any advertising campaigns. These Terms and any applicable IO are collectively referred to as the "Agreement." Google and Customer hereby agree and acknowledge:
1 Policies. Program use is subject to all applicable Google and Partner policies, including without limitation the Editorial Guidelines (adwords.google.com/select/guidelines.html), Google Privacy Policy (www.google.com/privacy.html) and Trademark Guidelines (www.google.com/permissions/guidelines.html), and Google and Partner ad specification requirements (collectively, "Policies"). Policies may be modified at any time. Customer shall direct only to Google communications regarding Customer ads on Partner Properties. Some Program features are identified as "Beta," "Ad Experiment," or otherwise unsupported ("Beta Features"). To the fullest extent permitted by law, Beta Features are provided "as is" and at Customer's option and risk. Customer shall not disclose to any third party any information from Beta Features, existence of non-public Beta Features or access to Beta Features. Google may modify ads to comply with any Policies.
2 The Program. Customer is solely responsible for all: (a) ad targeting options and keywords (collectively "Targets") and all ad content, ad information, and ad URLs ("Creative"), whether generated by or for Customer; and (b) web sites, services and landing pages which Creative links or directs viewers to, and advertised services and products (collectively "Services"). Customer shall protect any Customer passwords and takes full responsibility for Customer's own, and third party, use of any
Yes, I agree to the above terms and conditions.
« Back
Continue »

It is important to note that, on the actual account page, there is a scroll bar on the right side of the window depicted above that allows the advertiser to scroll through and read the entire contract, including the forum-selection clause that is at issue in Google's Motion to Dismiss. The scroll bar does not appear in the image above.

5. Google ensures that the AdWords contract is short and easy to read. The contract that plaintiff Feldman alleges he agreed to is just seven paragraphs long, plus a short pre-amble. *See* Complaint dated June 1, 2006, Ex. A. It is printed and displayed entirely in twelve-point type. The advertiser can quickly and easily scroll through the entire document in the window depicted above. Alternatively, as shown in the figure above, Google gives the advertiser the option to display a "Printer-friendly version" of the contract—one that fills the full screen, with all the other material on the page removed—which he can review on the screen, or, if he prefers, print so that he can review the document in paper form.

6. After Google presents the contract to the advertiser as shown in the figure above, the advertiser *must* click "**Yes,** I agree to the above terms and conditions" to progress to the next step. If the advertiser does not click "**Yes**, I agree to the above terms and conditions," pressing the "Continue" button will merely return him to the same page, with the "**Yes**, I agree to the above terms and conditions" button highlighted. Unless he agrees to the AdWords contract, the advertiser can never activate his account, which means that he can never place any ads or incur any charges.

7. I understand that plaintiff Feldman alleges he agreed to the AdWords contract in or around January 2003. Based on my work as an AdWords associate, I am familiar with how AdWords accounts were activated at that time, and the procedures described above were in place then. In short, if plaintiff Feldman ever advertised through the AdWords program, Google presented him with the AdWords contract, and he clicked the button to indicate that he agreed to the contract, *before* he placed any ads or incurred any charges.

I declare under penalty of perjury under the laws of the State of California and the Commonwealth of Pennsylvania that the foregoing is true and correct. Executed on this 16th day of November, 2006, at Santa Clara County, California.

ANNIE HSU